

MINUTES
KENTUCKY BOARD OF PHARMACY

State Office Building Annex
125 Holmes Street
Frankfort, KY 40601

May 12, 2010

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board Office at State Office Building Annex, 125 Holmes Street, Frankfort, Kentucky. President Thornbury called the meeting to order at 9:06 a.m.

Members present: Joel Thornbury, Larry Hadley, Debra Brewer, Brian DeWire, Scott Greenwell, and Anne Policastri. Staff: Mike Burleson, Executive Director; Steve Hart, Pharmacy Inspections and Investigations Coordinator; Shannon Allen, Katie Busroe, Chris Frasure and Phil Losch, Pharmacy and Drug Inspectors; Lisa Atha, Executive Secretary; Cheryl Lalonde, Assistant Attorney General and Board Counsel; and Brian Fingerson, Pharmacist Recovery Network Committee. Guests: Chris Killmeier, Walgreens; Pete Orzali, Humana; Mike Wyant, Cardinal Health; Danielle Smith, Mollie Carr and Ralph Bouvette, APSC; Samantha McKinley, Walmart; Alison Aldred, CVS; Kim Morgan, Target; Curtis Hull; Stephen Daffron; Brandon Green; Stephanie Sulfridge; and William Fugate, Sarah Jacobson, Katie Long, Layla Malefat, and Tyler Stewart, College of Pharmacy students. Melanie Curtis, Court Reporter, recorded the meeting.

MINUTES: On motion by Dr. DeWire, seconded by Mr. Hadley and passed unanimously, the Minutes of April 14, 2010 Board Meeting were approved as written.

APPEARANCES: **Curtis Hull.** Mr. Hull was sworn in by Melanie Curtis, Court Reporter. Mr. Hull appeared before the Board to ask permission to sit for the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE). After discussion, Dr. DeWire moved to allow Curtis Hull to sit for the NAPLEX and MPJE after completing 1500 hours of pharmacy experience in Kentucky. Mr. Hull has 24 months to successfully obtain a Kentucky pharmacist's license and if he fails to do so in this time period, the Agreed Order becomes null and void. Mr. Hull may work in a pharmacy as a technician and if successful at obtaining licensure, as a pharmacist, with stipulations as follows: probation for as long as obtaining experience and licensed as a Kentucky pharmacist; shall maintain a perpetual inventory at all places of employment for Schedule II drugs, with electronic tracking of Schedule III-V drugs and expired controlled substances, perpetual inventory shall be made available to the Board upon request and audits may be conducted; shall attend AA/NA meetings no less than 6 times per 2 week period of 12 meetings per calendar month, which shall include a minimum of 2 meetings per week; Board shall conduct quarterly inspections at all locations of employment in a pharmacy or practice site as a pharmacist for the first two years of probation, then semi-annually thereafter, the cost of which not to exceed \$500 per inspection,

shall be paid to the Board within 30 days of invoicing; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agree Order to all employers and pharmacists-in-charge; shall sign an aftercare contract, to include drug counselor if indicated, with the Pharmacist Recovery Network Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN contract shall be reported to the Board and PRNC Chair with 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all written medical records and conversations regarding medical care; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of the PRNC, the Board, or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect person's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN contract shall be communicated to the Board by the PRNC Chair with 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that person is not in compliance with the terms of this Agreed Order; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by person's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by person's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney; or preceptor; shall advise Board at all times of place of employment and shall only practice or work at a location with a work schedule that has received prior approval of the Board or its President; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions shall not be filled by a family member or at any family owned pharmacy and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and other Drug Dependencies, CAPTASA or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluations to the Board and PRNC Chair and shall make all appearances before the PRNC as requested, including an annual appearance closest to the anniversary date of licensure; shall not work at a pharmacy owned, in whole or in part, by him or another member of his family and shall not possess a key to a pharmacy owned, in whole or in part, by him or another member of his family; shall not be on the premises of any pharmacy owned, in whole or in part, by him or another member of his family; during probation shall have prior approval to own a new pharmacy, in whole or in part, by the Board or Board President; agrees that a violation of the Agreed Order, including relapse or theft of a controlled substance, shall result in permanent revocation of license; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Dr. Greenwell seconded, and motion passed 4 to 1, with Ms. Brewer, Dr. DeWire, Dr. Greenwell, and Dr. Policastri voting for the motion and Mr. Hadley voting against the motion.

Stephen Daffron. Mr. Daffron was sworn in by Melody Curtis, Court Reporter. Mr. Daffron appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. Daffron gave a brief overview of the events that lead to the loss of his license. After discussion, Mr. Hadley moved to allow reinstatement of Stephen Daffron's Kentucky pharmacist's license with stipulations. Motion died for lack of a second. After further discussion, Ms. Brewer moved to deny Stephen Daffron's request for reinstatement of his Kentucky pharmacist's license, stating that he may request an appearance before the Board no sooner than 6 months. Mr. Daffron was directed to register as a technician and work 500 hours at a supervised, Board approved pharmacy, provide character witnesses at his next appearance and successfully pass the Multistate Pharmacy Jurisprudence Examination. Dr. Policastri seconded, and the motion passed unanimously.

Brandon Green. Dr. Green was sworn in by Melody Curtis, Court Reporter. Dr. Green appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Dr. Green gave a brief overview of the events that lead to the loss of his license. After discussion, Dr. Policastri moved to reinstate Brandon Green's Kentucky pharmacist's license with stipulations as follows: probation for five years; shall maintain a perpetual inventory at all places of employment for Schedule II drugs, with electronic tracking of Schedule III-V drugs and expired controlled substances, perpetual inventory shall be made available to the Board upon request and audits may be conducted; shall attend AA/NA meetings no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 meetings per week; Board shall conduct quarterly inspections at all locations of employment or practice as a pharmacist for the first two years of probation, then semi-annually thereafter, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing; continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall sign an aftercare contract, to include drug counselor if indicated, with the Pharmacist Recovery Network Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all written medical records and conversations regarding medical care; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all

mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions shall not be filled by a family member or at any family owned pharmacy and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluations to the Board and PRNC Chair and shall make all appearances before the PRNC as requested, including an annual appearance closest to the anniversary date of reinstatement; shall not work at a pharmacy owned, in whole or in part, by him or another member of his family and shall not possess a key to a pharmacy owned, in whole or in part, by him or another member of his family; shall not be on the premises of any pharmacy owned, in whole or in part, by him or another member of his family; during probation shall have prior approval to own a new pharmacy, in whole or in part, by the Board or Board President; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Brewer seconded, and the motion passed 4 to 1, with Ms. Brewer, Dr. DeWire, Mr. Hadley and Dr. Policastri voting for the motion and Dr. Greenwell voting against the motion.

Stephanie Sulfridge. Dr. Sulfridge was sworn in by Melody Curtis, Court Reporter. Dr. Sulfridge appeared before the Board asking for reinstatement of her Kentucky pharmacist's license. Dr. Sulfridge gave a brief overview of the events that lead to the loss of her license. After discussion, Dr. DeWire moved to reinstate Stephanie Sulfridge's Kentucky pharmacist's license with stipulations as follows: probation for five years; shall maintain a perpetual inventory at all places of employment for Schedule II drugs, with electronic tracking of Schedule III-V drugs and expired controlled substances, perpetual inventory shall be made available to the Board upon request and audits may be conducted; shall attend AA/NA meetings no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 meetings per week; Board shall conduct quarterly inspections at all locations of employment or practice as a pharmacist for the first two years of probation, then semi-annually thereafter, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing; continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and

no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall sign an aftercare contract, to include drug counselor if indicated, with the Pharmacist Recovery Network Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all written medical records and conversations regarding medical care; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions shall not be filled by a family member or at any family owned pharmacy and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluations to the Board and PRNC Chair and shall make all appearances before the PRNC as requested, including an annual appearance closest to the anniversary date of reinstatement; shall not work at a pharmacy owned, in whole or in part, by her or another member of her family and shall not possess a key to a pharmacy owned, in whole or in part, by her or another member of her family; shall not be on the premises of any pharmacy owned, in whole or in part, by her or another member of her family; during probation shall have prior approval to own a new pharmacy, in whole or in part, by the Board or Board President; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Mr. Hadley seconded, and the motion passed 4 to 1 with Ms. Brewer, Dr.

DeWire, Mr. Hadley and Dr. Policastri voting for the motion and Dr. Greenwell voting against the motion.

INTERAGENCY: Dave Sallengs, branch manager of Office of Drug Enforcement and Professional Practices retired April 30, 2010. Stephanie Hold is the acting branch manager.

BOARD REPORTS: **President Thornbury** recognized Dr. Policastri for being awarded the Innovative Teaching Award at University of Kentucky.

Board Executive Director. 1) EMars monthly report for February and March 2010 was presented to the Board. 2) Dr. Greenwell moved to spend up to \$66,000 to digitalize and microfilm all records. Dr. Policastri seconded, and the motion passed unanimously. 3) The Board of Pharmacy is not considered essential and will cease to operate in the event that Kentucky does not have a budget in place as of July 1, 2010. Mr. Burleson has been asked to provide a contingency plan to the state if this does happen. The Board directed Mr. Burleson to provide a written reply informing the state that no other entity can provide the services that the Board of Pharmacy does and outline the impact ceasing to operate will have on the citizens of the Commonwealth. Mr. Burleson is to provide the Board members with a copy of the letter before it is sent out on Friday, May 14, 2010. 4) After reviewing 201 KAR 2:250, President Thornbury directed Brian Fingerson to present the issue of a contingency plan in the event of the sudden departure of the PRN Committee chair, to the PRN Committee for the Committee's review and discussion. Mr. Fingerson is to present any proposed contingency plan from the PRN Committee to the Board. Ms. Lalonde is researching the issue of PRN Committee meetings being open meetings.

CURRENT/PENDING CASES

Case Updates: Dr. Policastri moved to accept Case Updates as written. Ms. Brewer seconded, and the motion passed unanimously.

Case No. 09-0007A; 09-0112B; 10-0001B; 10-0002B; 10-0007; 10-0009B; 10-0005; 10-0014; 10-0015; 10-0022; 10-0025; 10-0029; 10-0030; 10-0034; 10-0036; 09-0037; 10-0038; 09-0112B; 09-0125B

Case Review: Dr. Policastri moved to accept the Case Review Committee recommendations with corrections. Dr. DeWire seconded, and the motion passed unanimously.

Case No. 09-0122. Pharmacy technician allegedly engaged in unprofessional and unethical conduct by diverting controlled substances. Alleged violations of law: KRS 315.121(1)(a) and (2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0003. Pharmacy technician allegedly engaged in unprofessional and unethical conduct by diverting controlled substances. Alleged violations of law: KRS 315.121(1)(a) and (2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary

action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0004A. Pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error. A patient had 4 prescriptions picked up at the pharmacy for her and when the bag was opened at home it contained a fifth bottle labeled for another patient. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0004B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. A patient had 4 prescriptions picked up at the pharmacy for her and when the bag was opened at home it contained a fifth bottle labeled for another patient. Alleged violations of law: KRS 315.121(2)(b) and (d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0010. Pharmacy intern allegedly violated PRN Agreement by testing positive for cocaine and alcohol. Alleged violation of law: KRS 315.121(1)(h). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0011A. Pharmacy permit holder allegedly sold a misbranded drug as a result of an incorrect medication being dispensed. Alleged violation law: KRS 217.065(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0011B. Pharmacist allegedly committed a medication error by dispensing an incorrect medication. Alleged violation law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0017. Pharmacy permit holder allegedly failed to name a pharmacist-in-charge within the required 14 days. Alleged violation of law: 201 KAR 2:205 Section 2(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0018. Pharmacist allegedly engaged in unprofessional or unethical conduct by pulling a gun in the pharmacy while working because of stress with hardware problems. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0019A. Pharmacy permit holder allegedly sold a misbranded drug as the result of a medication error. Patient allegedly presented a prescription for hydrocodone/acetaminophen 10mg/650mg but received hydrocodone/acetaminophen 7.5mg/650mg. Alleged violation of law: KRS 217.065(1). CRC Recommendation: Case is dismissed.

Case No. 10-0019B. Pharmacist allegedly engaged in unprofessional or unethical conduct by committing a medication error. Patient allegedly presented a prescription for hydrocodone/acetaminophen 10mg/650mg but received hydrocodone/acetaminophen 7.5mg/650mg. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: Case is dismissed.

Case No. 10-0020A. Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by allowing a prescription medication to be sold without a current prescription. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0020B. Pharmacist allegedly engaged in unprofessional or unethical conduct by dispensing a prescription medication without a current prescription. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0021A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by allowing a medication error when a prescription for Lorcet 7.5mg was filled with Lorcet 10mg. Alleged violation of law: KRS 315.121(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0021B. Pharmacist allegedly engaged in unprofessional or unethical conduct by committing a medication error by filling a prescription for Lorcet 7.5mg with Lorcet 10mg. Alleged violation of law: KRS 315.121(a). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0023A. Pharmacy permit holder allegedly sold a misbranded drug as a result of an incorrect medication being dispensed. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There

is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0023B. Pharmacist allegedly committed a medication error by dispensing the incorrect medication. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0026A. Pharmacy permit holder allegedly allowed confidential patient information to be divulged. Alleged violation of law: 201 KAR 2:210 Section 3(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0026B. Pharmacist allegedly verbally divulged confidential patient information by asking the patient about her fluconazole in the presence of other customers and her young son. Alleged violation of law: KRS 315.121(2)(b). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0027A. Pharmacy permit holder allegedly sold a misbranded product as a result of a medication error. Patient allegedly received an opened tube of Zovirax cream that was labeled correctly on the outside box, but had a different label with another patient's personal information on the actual tube. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0027B. Pharmacist allegedly engaged in unprofessional or unethical conduct by committing a medication error and revealing patient information to an unauthorized person. Patient allegedly received an opened tube of Zovirax cream that was labeled correctly on the outside box, but had a different label with another patient's personal information on the actual tube. Alleged violations of law: KRS 315.121(2)(b) and (d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0028A. Pharmacy permit holder allegedly sold a misbranded drug as the result of a medication error. A prescription for Ritalin 10mg tablets was filled with methadone 10mg tablets. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0028B. Pharmacist allegedly committed a medication error by dispensing methadone 10mg tablets for a Ritalin 10mg tablets prescription. Alleged violation of law: KRS

315.121(2)(d). **CRC Recommendation:** There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0031. Pharmacist allegedly engaged in unprofessional or unethical conduct by selling, dispensing, or ingesting a drug for which a prescription drug order is required, without having first a prescription drug order for the drug. Alleged violations of law: KRS 315.121(1)(a) and (2)(f). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0032A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by allowing confidential patient information to be divulged or revealed to unauthorized persons. Alleged violation of law: KRS 315.121(1)(a). **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0032B. Pharmacist allegedly engaged in unprofessional or unethical conduct by divulging or revealing to unauthorized persons a patient's information. Alleged violations of law: KRS 315.121(1)(a) and (2)(b). **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0040A. Pharmacy permit holder allegedly sold a misbranded drug as the result of a medication error. A prescription for Remeron 30mg tablets (generic) was filled with Restoril 30mg capsules (generic). Alleged violation of law: KRS 217.065(1). **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0040B. Pharmacist allegedly engaged in unprofessional or unethical conduct by committing a medication error. A prescription for Remeron 30mg tablets (generic) was filled with Restoril 30mg capsules (generic). Alleged violation of law: KRS 315.121(2)(d). **CRC Recommendation:** There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0042. Pharmacist allegedly admitted to forging several non-controlled substance prescriptions for personal administration without contacting his physician for authorization prior to dispensing. Alleged violations of law: KRS 315.121(2)(f) and (g). **CRC Recommendation:** There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0044A. Pharmacy permit holder allegedly sold a misbranded drug as a result of Keppra 750mg being dispensed instead of Keppra XR 750mg. Alleged violation of law: KRS 217.065(1). **CRC**

Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0044B. Pharmacist allegedly engaged in unprofessional or unethical conduct by committing a medication error. Keppra 750mg was dispensed instead of Keppra XR 750mg. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0047. Pharmacy technician allegedly diverted controlled substances from pharmacy where employed. Alleged violations of law: KRS 315.121(1)(a) and (2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0048. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by falsifying a purchase record for pseudoephedrine. Alleged violations of law: KRS 315.121 (1)(a) and (f) and (2)(c) and (g). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0049. Pharmacy technician allegedly diverted controlled substances from pharmacy where employed. Alleged violations of law: KRS 315.121(1)(a) and (2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0050. Pharmacist allegedly failed to complete 15 hours of continuing education for 2008. Pharmacist reported completing all continuing education requirements on 2009 Kentucky pharmacist's license renewal, however, pharmacist had only completed 14 hours. Alleged violations of law: KRS 315.065 and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0051. Pharmacist allegedly failed to complete any of the required 15 hours of continuing education for 2009. Alleged violations of law: KRS 315.065 and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action

and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0055A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by failing to renew a Kentucky Medicaid prior authorization and making patient pay for the prescription. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0055B. Pharmacist allegedly engaged in unprofessional or unethical conduct by failing to renew a Kentucky Medicaid prior authorization and making patient pay for the prescription. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0056. Pharmacy technician allegedly diverted controlled substances from pharmacy of employment. Alleged violations of law: KRS 315.121(1)(a) and (2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0057A. Pharmacist, with technician assistance, allegedly dispensed and transferred a drug, Z-pak, for which a prescription drug order is required, without having first received a prescription drug order for the drug. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0057B. Pharmacy technician allegedly assisted pharmacist in dispensing and transferring a drug, Z-pak, for which a prescription drug order is required, without having first received a prescription drug order for the drug. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0058. Pharmacy technician allegedly made a false statement and/or misrepresentation of a material fact in securing issuance and renewal of a technician registration certificate by failing to inform the Board of Pharmacy that she had been convicted of a felony drug charge. Alleged violations of law: KRS 315.121(1)(c) and (e). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0059A. Pharmacy permit holder allegedly failed to provide adequate security of controlled substances, and engaged in unprofessional or unethical conduct by engaging in fraud in connection with the practice of pharmacy and failing to maintain complete and accurate records of Schedule II drugs received in compliance with federal and state laws, rules or administrative regulations. Quantity of Schedule II drugs and date received was not recorded on DEA 222 Schedule II drug order forms and

pharmacy technician allegedly forged pharmacist's signature on DEA 222 Schedule II drug order forms. Alleged violations of law: 201 KAR 2:100 Section 1, KRS 315.121(1)(a) and (f), and KRS 315.121(2)(g). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0059B. Pharmacist allegedly engaged in unprofessional or unethical conduct by engaging in fraud in connection with the practice of pharmacy and failing to maintain complete and accurate records of Schedule II drugs received in compliance with federal and state laws, rules or administrative regulations. Quantity of Schedule II drugs and date received was not recorded on DEA 222 Schedule II drug order forms and pharmacy technician allegedly forged pharmacist's signature on DEA 222 Schedule II drug order forms. Alleged violations of law: 201 KAR 2:100 Section 1, KRS 315.121(1)(a) and (f), and KRS 315.121(2)(g). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0059C. Pharmacy technician allegedly engaged in unprofessional and unethical conduct by engaging in fraud in connection with the practice of pharmacy and failing to maintain complete and accurate records of Schedule II drugs received in compliance with federal and state laws, rules or administrative regulations. Pharmacy technician allegedly forged pharmacist's signature on DEA 222 Schedule II drug order forms. Alleged violations of law: 201 KAR 2:100 Section 1, KRS 315.121(1)(a) and (f), and KRS 315.121(2)(g). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0061A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. A prescription refill was for rantidine 150mg but the patient received rantidine 150mg and 300mg in the vial. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0061B. Pharmacist allegedly engaged in unprofessional or unethical conduct by committing a medication error. A prescription refill was for rantidine 150mg but the patient received rantidine 150mg and 300mg in the vial. Alleged violations of law: KRS 315.121(1)(a) and (2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0062A. Pharmacy permit holder allegedly allowed a pharmacy technician to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violations of law: KRS 315.135 and KRS 315.121(1)(g). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0062B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135. CRC

Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0063. Pharmacist allegedly engaged in unprofessional or unethical conduct by violating an Agreed Order by having a positive drug screen for phentermine. Alleged violation of law: KRS 315.121(1)(h). **CRC Recommendation:** There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0065A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct. Pharmacist owner's signature was allegedly forged on form naming pharmacist owner as pharmacist-in-charge. As a result, pharmacist owner was not physically present in pharmacy a minimum of 10 hours per week. Pharmacy permit holder allegedly engaged in fraud in connection with the practice of pharmacy by failing to maintain accurate records of Schedule II drugs in compliance with federal and state laws, rules or administrative regulations. Pharmacist's signature was allegedly forged on DEA 222 Schedule II drug order forms. Alleged violations of law: KRS 315.121(1)(e)(f) and (2)(g) and 201 KAR 2:205 Section 2(2)(b). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0065B. Pharmacist allegedly engaged in unprofessional or unethical conduct. Pharmacist owner's signature was allegedly forged on form naming pharmacist owner as pharmacist-in-charge. As a result, pharmacist owner was not physically present in pharmacy a minimum of 10 hours per week. Pharmacist allegedly engaged in fraud in connection with the practice of pharmacy by failing to maintain accurate records of Schedule II drugs in compliance with federal and state laws, rules or administrative regulations. Pharmacist's signature was allegedly forged on DEA 222 Schedule II drug order forms. Alleged violations of law: KRS 315.121(1)(e)(f) and (2)(g) and 201 KAR 2:205 section 2(2)(b). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0066A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by engaging in fraud in connection with the practice of pharmacy by failing to maintain accurate records of Schedule II drugs in compliance with federal and state laws, rules or administrative regulations. Pharmacist's signature was allegedly forged on DEA 222 Schedule II drug order forms. Alleged violations of law: KRS 315.121(1)(a), (f) and (2)(g). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 10-0066B. Pharmacist allegedly engaged in unprofessional and unethical conduct by engaging in fraud in connection with the practice of pharmacy by failing to maintain accurate records of Schedule II drugs in compliance with federal and state laws, rules or administrative regulations. Pharmacist's signature was allegedly forged on DEA 222 Schedule II drug order forms. Alleged violations of law: KRS 315.121(1)(a), (f) and (2)(g). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

RECIPROCITY/RELICENSURE/INTERNSHIP:

Kiran Babu Siripurapu. Mr. Siripurapu requested he be granted permission to use research for part of his internship hours. Dr. Greenwell moved to allow Kiran Babu Siripurapu to use research for 400 internship hours at a maximum of 48 hours per week. Ms. Brewer seconded, and the motion passed unanimously.

CORRESPONDENCE/COMMUNICATION:

Kentucky Buying Cooperative International/Harold Jones. Mr. Jones requested that pharmacy permit holders Kentucky Buying Cooperative (KBC) International and HorsePharm be allowed to share equipment and reference materials and that he be allowed to be pharmacist-in-charge of both KBC International and HorsePharm. Dr. Greenwell moved to allow the sharing of required equipment and reference materials by Kentucky Buying Cooperative International and HorsePharm and that Harold Jones be allowed to be pharmacist-in-charge at both pharmacy permits. Dr. DeWire seconded, and the motion passed unanimously.

Kentucky Pharmacist Association/Brad Hall. Mr. Hall requested an equipment waiver for Rx Therapy Management, a pharmacy that will not be purchasing or dispensing any medications, only providing medication therapy management services. Dr. Policastri moved to approve the request to waive required equipment for Rx Therapy Management. Ms. Brewer seconded, and the motion passed unanimously with Mr. Hadley recusing. It was the consensus of the Board that the regulations regarding non-dispensing pharmacy requirements need to be reviewed and updated.

Med Care Pharmacy/Joe Mashni. Dr. Mashni requested a waiver for Med Care Pharmacy to allow electronically prescribed non-controlled substance prescriptions to be filed electronically, instead of printing a hard copy prescription. Dr. Policastri moved to deny the request that Med Care Pharmacy be allowed to electronically file, instead of printing a hard copy, all non-controlled substance prescriptions that have been electronically prescribed because the Board has no legal basis to grant the request. Ms. Brewer seconded, and the motion passed unanimously.

Pharmacy Technician Registrant DM. Mr. Hadley moved to approve the application for Pharmacy Technician Registrant DM provided he signs an Agreed Order with standard language that includes probation for one year with a PRN agreement. Ms. Brewer seconded, and the motion passed unanimously.

Pharmacy Technician Registrant VE. Dr. Greenwell moved to approve the application for Pharmacy Technician VE without restriction. Motion died for lack of a second. After discussion, Dr. DeWire moved to approve the application for Pharmacy Technician Registrant VE without restriction. Dr. Greenwell seconded, and the motion passed unanimously.

Pharmacy Technician Registrant LC. Ms. Brewer moved to approve the application for Pharmacy Technician Registrant LC without restriction. Mr. Hadley seconded, and the motion passed unanimously.

Pharmacy Technician Registrant JM. Dr. Greenwell moved to approve the application for Pharmacy Technician Registrant JM without restriction. Mr. Hadley seconded, and the motion passed unanimously.

Pharmacy Technician Registrant TR. Dr. Greenwell moved to approve the application for Pharmacy Technician Registrant TR provided he signs an Agreed Order with standard language that includes probation for one year with a PRN agreement. Dr. Policastri seconded, and the motion passed unanimously.

Pharmacy Technician Registrant EH. Dr. Greenwell moved to approve the application for Pharmacy Technician Registrant EH provided he signs an Agreed Order with standard language that includes probation for one year with a PRN agreement. Mr. Hadley seconded, and the motion passed unanimously.

Pharmacy Technician Registrant AW. Dr. Greenwell moved to approve the application for Pharmacy Technician Registrant AW without restriction. Mr. Hadley seconded, and the motion passed unanimously.

Pharmacy Technician Registrant AB. Mr. Hadley moved to approve renewal of registration for Pharmacy Technician AB provided he signs an Agreed Order with standard language that includes probation for one year with a PRN agreement. Dr. Policastri seconded, and the motion passed unanimously.

Pharmacy Technician Registrant JV. Dr. DeWire moved to approve renewal of registration for Pharmacy Technician JV without restriction. Dr. Greenwell seconded, and the motion passed unanimously.

Pharmacy Technician Registrants KK, SM, JW, SA and AS. Mr. Hadley moved to approve renewals of registrations for Pharmacy Technicians KK, SM, JW, SA and AS provided they sign Agreed Orders with standard language that include probation for one year with PRN agreements. Dr. Greenwell seconded, and the motion passed unanimously.

CONTINUING EDUCATION:

Mr. Hadley moved to accept the continuing education programs 10-19 through 10-26 as recommended. Dr. Policastri seconded, and the motion passed unanimously.

NEW BUSINESS: Ken Kirsh, consumer member of the PRN Committee, resigned effective May 5, 2010. President Thornbury directed Mr. Burleson to notify KPhA, KSHP, APSC, KRF, and the Colleges of Pharmacy of the vacancy and solicit applications, as well as post this

information on the Board's website. Applications shall be due in the Board office by July 1, 2010 and will be addressed at the July Board meeting.

President Thornbury appointed Mr. Hadley as chair, with Dr. Policastri and Dr. Greenwell as members of the evaluation committee for Executive Director. The evaluation is to be completed before the September Board meeting.

President Thornbury appointed Dr. Greenwell as chair with Dr. Policastri, Mr. Burleson, Steve Hart, Katie Busroe, Jan Gould, Ralph Bouvette, Brad Hall and a representative from KSHP to a newly created regulations review committee. This committee shall review and offer suggestions to the Board on regulatory changes for pharmacist, intern and technician applications and non-dispensing pharmacy requirements.

President Thornbury appointed Ms. Brewer as chair with Mr. Burleson, Steve Hart, Ralph Bouvette, Jan Gould, Clay Rhodes, Brad Hall, Chris Killmeier, and a representative from KSHP to a committee to develop a regulation for pharmacies when a state of emergency has been declared.

ADJOURNMENT: On motion by Mr. Hadley, seconded by Ms. Brewer and passed unanimously, President Thornbury adjourned the Board Meeting at 2:19 p.m. The next regularly scheduled Board Meeting is scheduled to begin at 9:00 a.m. on July 14, 2010 at the Board Office, State Office Building Annex, 125 Holmes Street, Frankfort, Kentucky.

Michael Burleson, R.Ph.
Executive Director